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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/559,514	12/05/2005	Guenter Wanschura	19258	3831
272	7590	09/14/2007		
SCULLY, SCOTT, MURPHY & PRESSER, P.C.			EXAMINER	
400 GARDEN CITY PLAZA			LESLIE, MICHAEL S	
SUITE 300				
GARDEN CITY, NY 11530			ART UNIT	PAPER NUMBER
			3745	
			MAIL DATE	DELIVERY MODE
			09/14/2007	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No.	Applicant(s)
	10/559,514	WANSCHURA ET AL.
	Examiner	Art Unit
	Michael Leslie	3745

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) Responsive to communication(s) filed on _____.
- 2a) This action is **FINAL**. 2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) Claim(s) 1-19 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) Claim(s) _____ is/are allowed.
- 6) Claim(s) 1-3 and 17 is/are rejected.
- 7) Claim(s) 4-16, 18 and 19 is/are objected to.
- 8) Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on 05 December 2005 is/are: a) accepted or b) objected to by the Examiner. Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a). Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) All b) Some * c) None of:
 1. Certified copies of the priority documents have been received.
 2. Certified copies of the priority documents have been received in Application No. _____.
 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) Notice of References Cited (PTO-892)
- 2) Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date 12/5/2005.
- 4) Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____.
- 5) Notice of Informal Patent Application
- 6) Other: _____.

DETAILED ACTION

Claim Objections

Claims 1-19 are objected to because of the following informalities: Claim 1, Lines 3-4, “the control angle” should be --a control angle--, Line 9, “the zero position” should be --a zero position--; Claims 2-19, Line 1, “Claim” should be --claim--; Claim 4, Line 4, “its” should be --the--, “the first opening” should be --a first opening--, Line 6, “the second opening” should be --a second opening--. Appropriate correction is required.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1-3 are rejected under 35 U.S.C. 102(b) as being anticipated by Kleineisel (DE 3935800).

Kleineisel discloses a reversible axial piston machine having a cylinder drum (3) which rotates about an axis of rotation (D) and in the cylinder cutouts of which pistons (4), which are supported against an inclined surface (not labeled), are movable, a control angle of the inclined surface being adjustable by an adjusting device (~8), the adjusting device having a control piston (11) which adjusts the control angle in both pivotal directions and extends with a substantial direction component parallel to the direction of the axis of rotation of the cylinder drum wherein a zero position of the inclined surface, in which the inclined surface is oriented perpendicularly to the axis of rotation of the cylinder drum, can be set without play by a zero-position setting

device (I, II). The zero-position setting device includes a first adjusting rod (16) which is positionably guided in a stepped cutout (~14) of the control piston, the cutout extending in the direction of the longitudinal axis of the control piston, and positions the control piston in the two directions of its longitudinal axis, and the inclined surface is constructed on a rotatably mounted pivot balance (6).

Claims 1, 3, and 17 are rejected under 35 U.S.C. 102(b) as being anticipated by Forster (4896585).

Forster discloses a reversible axial piston machine having a cylinder drum (8) which rotates about an axis of rotation and in the cylinder cutouts of which pistons (10), which are supported against an inclined surface (113), are movable, a control angle (Fig. 2) of the inclined surface being adjustable by an adjusting device, the adjusting device having a control piston (127, 117) which adjusts the control angle in both pivotal directions and extends with a substantial direction component parallel to the direction of the axis of rotation of the cylinder drum wherein a zero position of the inclined surface, in which the inclined surface is oriented perpendicularly to the axis of rotation of the cylinder drum, can be set without play by a zero-position setting device (Column 3, Lines 3-4). Wherein the inclined surface is constructed on a rotatably mounted pivot balance (114), and the control piston, which is axially movable in the direction of its longitudinal axis, is attached with form fit to the pivot balance by way of a slide block which is mounted in a groove of the control piston and has a cutout in which a journal connected to the pivot balance by way of a connecting arm is fixedly mounted (Fig. 2).

Conclusion

Claims 4-16, 18, and 19 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Michael Leslie whose telephone number is (571) 272-4819. The examiner can normally be reached on M-F 8:00am - 4:30pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Edward Look can be reached on (571) 272-4820. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

ML
September 11, 2007

Michael Leslie
Michael Leslie
Primary Examiner
AU 3745